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CHAPTER 12. OVERSEAS EMPLOYMENT OF NON-U.S. CITIZENS
UNDER TITLE 38 U.S.C. 7405(a)(1)

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**CHAPTER 12. OVERSEAS EMPLOYMENT OF NON-U.S.CITIZENS
UNDER TITLE 38 U.S.C. 7405 (a)(1)**

1. SCOPE AND DEFINITIONS

a. **Scope.** This chapter contains basic policies and procedures for appointing non-U.S. citizens at VA Regional Office Outpatient Clinic, Manila, Republic of the Philippines. It applies to:

(1) Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs) appointed under 38 U.S.C. 7405 (a)(1).

(2) Individuals appointed under 38 U.S.C. 7405(a)(1) to occupations listed in 38 U.S.C. 7401(3), such as certified or registered respiratory therapists (RTs), licensed physical therapists (PTs), and licensed practical or vocational nurses (LPNs), occupational therapists (OTs), and pharmacists.

(3) Medical support personnel.

(4) Trainees in health-care or associated health-care occupations appointed under 38 U.S.C. 7405(a)(1).

b. **Definitions.** Unless otherwise specified, “employee” refers to the personnel in subparagraph a who were appointed at VA Regional Office Outpatient Clinic, Manila, Republic of the Philippines.

Authority: 38 U.S.C. 501(a), 7421, 7405(a)(1)

2. REFERENCES

- a. Title 38, United States Code, Chapters 73 and 74
- b. MP-5, pt. II, chs. 3, 5, 7, 9 and 10.
- c. MP-5, pt. I, chs. 301, 430, 534, 610 and 630.

3. APPOINTMENT AND QUALIFICATIONS

a. **Appointment Authority.** The regional office Director may appoint the following personnel under the provisions of 38 U.S.C. 7405(a)(1) and VA Manual MP-5, pt. II, ch. 2, and its Veterans Health Administration (VHA) Supplement:

(1) The categories of personnel listed in paragraphs 1a(1) and (2) of this chapter may be appointed on a temporary full-time, part-time, intermittent, without compensation, or fee basis.

(2) Medical support personnel may be appointed (not to exceed one year) on a temporary full-time, part-time or intermittent basis.

(3) Trainees in health-care or associated health care occupations may be appointed on a full-time, part-time or intermittent basis with or without a time limit.

(4) Notwithstanding VHA Supplement, MP-5, pt. II, ch. 2, par. 2.24b, the regional office Director may renew or extend appointments made under subparagraphs (1) through (3), above, beyond 6 years.

b. **Qualification Standards.** VA Qualification Standards will be used to determine the appropriate grade levels for applicants appointed under provisions of this chapter and MP-5, pt. II, ch. 2, and its VHA Supplement (except that the licensure and citizenship requirements of paragraphs 2.56e(2) and 2.57d of the Supplement will be applicable). The regional office Director may, under unusual circumstances, approve a deviation from the grade requirements when the composite record of qualifications justifies the action.

(Note: The current VA qualification standards for registered nurses and nurse anesthetists are contained in VA Circular 00-93-7, "Locality Pay System.")

c. **Standards Board.** The regional office Director approves appointments and advancements on the recommendation of the Standards Board. A representative of the human resources management office will serve as a technical advisor to the Standards Board. The Standards Board for the personnel listed in paragraph 1a(1) and (2), above, will consist of the Chief Medical Officer, and 2 senior clinic physicians. When it is not possible to constitute a board, or when a Standards Board is required for the Chief Medical Officer, the regional office Director will forward the Official Personnel Folder (OPF), Board action and a letter with the regional office Director's comments to the appropriate board (e.g. Regional Board, VISN Board, etc.) for review and recommendation. The OPF and related documents will be returned to the regional office Director for approval.

Authority: 38 U.S.C. 501(a), 7421, 7401, 7402, 7403, 7405

4. COMPENSATION

a. **Initial Rate of Pay.** The initial rate of pay for personnel appointed under this chapter shall be determined in accordance with VA Manual MP-5, pt. II, ch. 3, and its VHA Supplement, except that the pay schedule in MP-5, pt. I, ch. 534, sec. C, shall be used. This includes the appointment of physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PAs, and EFDAs at rates above the minimum rate of the grade based upon superior qualifications (VHA Supplement, MP-5, pt. II, ch. 2, par. 2.10) and appointment of personnel providing direct patient-care services or services incident to direct patient care at rates above the minimum rate of the grade (VA Directive 5103).

b. **Adjustment of Salary Rates.** Periodic pay increases and application of revised salary schedules will be processed in accordance with MP-5, pt. I, ch. 534, sec. C.

c. **Adjustment of Salary Rates on Position Changes.** Salary determinations upon promotion, reassignment, reemployment, restoration, and transfer will be made in accordance with MP-5, pt. II, ch. 3, and its VHA Supplement.

d. **Bonuses.** Payment of bonuses will be processed in accordance with MP-5, pt. I, ch. 534, Sec C.

e. **Premium Pay.** Physicians, dentists, podiatrists, optometrists, and trainees in health-care or associated health-care occupations are not entitled to premium pay. Nurses, nurse anesthetists, PAs, EFDAs and the employees listed in paragraphs 1a(2) and (3) of this chapter are eligible for premium pay under the provisions of MP-5, pt. II, ch. 3, and its VHA Supplement.

Authority: 38 U.S.C. 501(a), 7431, 7421

5. ADVANCEMENTS

a. **Periodic Consideration.** Employees in paragraphs 1a(1) and (2) shall be considered periodically for promotion under the provisions of MP-5, pt. II, ch. 5, and its VHA Supplement.

b. **Standards Boards.** The Standards Board designated in paragraph 3c, above, will act on all promotion actions. The regional office Director is the approval authority for promotions.

c. **Special Advancements for Achievement and Performance.** Employees may be considered for special advancements for achievement and performance in accordance with provisions of MP-5, pt. II, ch. 5, and its VHA Supplement.

Authority: 38 U.S.C. 501(a), 7421, 7403

6. PROFICIENCY RATING SYSTEM AND PERFORMANCE EVALUATION

The provisions of MP-5, pt. II, ch. 6, and its VHA Supplement apply to the personnel listed in paragraph 1a(1) of this chapter. The performance of personnel listed in paragraphs 1a(2) and (3) of this chapter shall be evaluated using the procedures contained in MP-5, pt. I, ch. 430.

Authority: 38 U.S.C. 501(a), 7421

7. LEAVE AND HOURS OF DUTY

a. **Physicians, Dentists, Podiatrists, Optometrists, Nurses, Nurse Anesthetists, PAs and EFDAs.** Policies concerning leave and hours of duty for these employees are found in MP-5, pt. II, ch. 7, and its VHA Supplement.

b. **Personnel in Occupations Listed Under 38 U.S.C. 7401(3).** Leave and hours of duty policy for these employees are contained in MP-5, pt. I, chs. 301, 610 and 630, and their VHA Supplements.

c. **Medical Support Personnel and Trainees Appointed Under 38 U.S.C. 7405(a)** Leave and hours of duty policies for medical support personnel are contained in MP-5, pt. I, chs. 610 and 630. Trainees are excluded from the provisions of MP-5, pt. I, ch. 610, and are not entitled to leave.

Authority: 38 U.S.C. 501(a), 7421

8. TERMINATIONS

Employees will be separated or terminated under provisions of MP-5, pt. II, ch. 9, and its VHA Supplement.

Authority: 38 U.S.C. 501(a), 7421

9. PHYSICAL REQUIREMENTS

Physical requirements and procedures for determining fitness for duty are governed by the provisions of MP-5, pt. II, ch. 10, and its VHA Supplement.

Authority: 38 U.S.C. 501(a), 7421